IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1239 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 19/07/2004 in WP NO : 9625 OF 2004 on the file of the High Court.)

Between:

1 N.Hanumantha Rao, S/o.Venkaiah,
R/o.Gondriyala, Kodad Mandal, Nalgonda Dist.
2 N.Seshu, S/o.Sudarshan,
R/o.Gondriyala, Kodad Mandal, Nalgonda Dist.
3 A.Damodar Rao, S/o.Venkaiah,
R/o.Duddaram, Nelakondapalli Mandal, Khammam Dist.

..... APPELLANTS

AND

1 The Asst.Commissioner of Endowments Nalgonda, Nalgonda Dist.
2 The Person-in-Management, Sri Umamaheswara Swamy

Devastanam, Gondriyala, Kodad Mandal,Nalgonda Dist.

.....RESPONDENTS

Counsel for the Appellant:MR.SRINIVASA RAO BODDULURI

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: Mr.Ravi Kondaveeti

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Appellants are the writ petitioners. Their writ petition was dismissed on the ground that since the application for stay had been dismissed and interim stay had been vacated, the writ petition had been rendered infructuous.

The appellants' grievance now is that the writ petition ought not to have been dismissed as having been rendered infructuous since cause of action was still surviving and now fresh notice fixing the date of auction of the temple lands for being given on lease has been issued.

Facts in brief are that pursuant to notice dated 28-2-2004, auction was conducted for the temple lands on 9th March, 2004. Petitioners were declared to be the highest bidders and it is the case of the petitioners that they deposited 1/4th of the bid amount. Pursuant to the petitioners being declared as the highest bidders, papers were forwarded for confirmation of the bid. In the meanwhile, a fresh auction notice was issued against which the petitioners felt aggrieved and filed the writ petition. The fresh auction notice dated 31st May, 2004 was stayed. The stay was ultimately vacated. As a matter of fact, by mere vacation of the stay of the auction so fixed, which did not take place, the writ petition had not been rendered infructuous and ought not to have been dismissed as such by the learned single Judge. Normally, we would have set aside the order of the learned single Judge and sent the case back for being decided afresh in accordance with law. But we find from the record that the respondents had filed counter affidavit and it is on record. Therefore,

we have proceeded to hear the learned counsel for the appellants.

We do not find any force in the writ petition. The case of the respondents is that the auction conducted pursuant to the notice dated 28th February, 2004 was not in accordance with the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003. Rule 12 thereof provided that auction shall be conducted by the Executive Officer of the Institution or Endowment concerned. If there is no Executive Officer, auction shall be conducted by the Chairman of the Board of Trustees or any other person who is incharge of the management. Learned counsel for the appellants submits that auction was conducted by the person incharge of the management and therefore, there is no illegality in conduct of the auction. Admittedly, there was no other representative of the Endowments Department present, who, as per sub-Rule (2) of Rule 12 of the Rules, is required to be present to oversee the proceedings and ensure that auction is duly conducted in accordance with the Act and Rules. Sub-Rule (2) enjoins that at every auction conducted under sub-Rule (1), there shall be present such departmental officer as may be deputed by the competent authority. To the counter affidavit, no reply was filed by the appellants. Thus, it has to be taken that the auction conducted on 9th March, 2004 was not a valid auction and respondents are at liberty to continue with the proposed auction.

The writ petition and the appeal as such are dismissed.

_____

DEVINDER GUPTA, CJ

13-8-2004

_____

C.V.RAMULU, J

Tvr

To

1 The Asst.Commissioner of Endowments Nalgonda, Nalgonda Dist.
2 The Person-in-Management, Sri Umamaheswara Swamy

Devastanam, Gondriyala, Kodad Mandal,Nalgonda Dist.

3 2 CCs to the Govt. Pleader for Endowments, High Court Buildings,

Hyderabad (OUT).

4 2 CD copies.